

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-HLH/71

- Applicant** : Ying Sing (Hopewell) Engineering Limited represented by GD Management Limited
- Site** : Lot 369 in D.D. 87, Hung Lung Hang, New Territories
- Site Area** : About 2,145m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Hung Lung Hang Outline Zoning Plan (OZP) No. S/NE-HLH/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Open Storage and Warehouse of Construction Machinery for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage and warehouse of construction machinery for a period of three years and associated filling of land. The Site falls within an area zoned “AGR” on the approved OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years and filling of land within the “AGR” zone require a planning permission from the Town Planning Board (the Board). The Site is largely formed and currently used for storage purpose without valid planning permission.
- 1.2 The Site is accessible from Kong Nga Po Road via a local track with an ingress/egress point in the west (**Plan A-1**). According to the applicant, 79% of the Site will be used for open storage of construction machinery, manoeuvring space and provision of one private carparking space and one loading/unloading bay for medium goods vehicles, while the remaining 21% of the Site will be used for warehouse comprising a single storey of not more than 7m in height and a total area of about 450m² for storing tools and office use (**Drawing A-1**). The operation hours are from 9:00 a.m. to 6:00 p.m., Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The application also serves to regularize the land filling works (i.e. 0.2m depth of concrete) which have already undertaken at the Site.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Planning Statement (PS) and (**Appendix I**) attachments received on 22.12.2023

- (b) Further Information (FI) received on 22.1.2024[^] (Appendix Ia)
- (c) FI received on 30.1.2024[^] (Appendix Ib)
- (d) FI received on 2.2.2024[^] (Appendix Ic)
- (e) FI received on 11.3.2024[^] (Appendix Id)
- (f) FI received on 11.4.2024[^] (Appendix Ie)

[^] accepted and exempted from the publication and recounting requirements

- 1.4 On 16.2.2024, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I** as summarized below:

- (a) the Site is mainly used for storage of construction machinery to meet the pressing demand for open storages in the construction industry;
- (b) it is largely formed and accessible via roads;
- (c) it falls within Category 2 area under the Town Planning Board Guidelines No. 13G for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13G). As there are open storage uses in the vicinity of the Site, the applied use is not incompatible with the surroundings;
- (d) the applied use is temporary in nature, which would not jeopardize the long-term planning intention of the "AGR" zone; and
- (e) significant adverse landscape, traffic, environmental, and drainage impacts on the surroundings are not anticipated.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "current land owner" but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent / Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by taking reasonable steps to give notification to the owner including publishing notices in local newspapers and sending a notice to Sheung Shui District Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

TPB PG-No.13G promulgated on 14.4.2023 is relevant to this application. The Site falls within Category 2 area under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. **Background**

The Site is subject of an enforcement case (No. E/NE-HLH/155) against unauthorized development (UD) covering a larger area involving storage use (including deposit of containers) (**Plan A-2**). Enforcement Notice was issued on 14.2.2024 requiring discontinuation of the UD. If the EN is not complied with, prosecution action may be instigated.

6. **Previous Application**

The Site is not the subject of any previous application.

7. **Similar Applications**

- 7.1 There were 15 similar applications involving nine sites for temporary open storage uses within the same “AGR” zone in the vicinity of the Site in the Hung Lung Hang area in the past five years (**Plan A-1**). Six of them (No. A/NE-HLH/38, 39, 43, 44, 46 and 48) were rejected by the Committee between January and December 2020 mainly for reasons of not complying with the previous versions TPB PG-No. 13E/13F in that no previous planning approvals were granted to the sites concerned; adverse departmental comments; insufficient information to demonstrate that the developments would not generate adverse environmental, traffic and landscape impacts on the surrounding areas; and setting of undesirable precedent for other similar applications within the “AGR” zone.
- 7.2 The remaining nine similar applications (No. A/NE-HLH/51, 54, 55, 59, 60, 61, 64, 66 and 70) were approved with conditions between August 2021 and April 2024 after the relevant sites were reclassified from Category 3 to Category 2 under TPB PG-No. 13F/13G. The applications generally complied with TPB PG-No. 13F/13G in that no major adverse departmental comments were received on the applications; and the concerns of the relevant government departments could be addressed through implementation of approval conditions.
- 7.3 Details of the similar applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

8. **The Site and Its Surrounding Areas** (Plans A-1 to A-4b)

- 8.1 The Site is:
 - (a) largely formed and paved, and used for open storage use without valid planning permission; and
 - (b) accessible from Kong Nga Po Road via a local track (**Plan A-1**).
- 8.2 The surrounding areas are of rural landscape character comprising open storages, warehouses, fallow agricultural land, temporary structures, vacant land, as well as clusters of tree groups and woodland within the “Green Belt” (“GB”) zone to the further south of the Site. Domestic structures can be found in the vicinity with the nearest located at about 100m to the northeast of the Site (**Plan A-2**).

9. Planning Intention

- 9.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are at **Appendices IV** and **V** respectively.
- 10.2 The following government departments do not support the application:

Agriculture and Nature Conservation

10.2.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- The Site falls within the “AGR” zone and is generally occupied by some sundries. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the applied use is not supported from an agricultural perspective.

Environment

10.2.2 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application as there are sensitive users in the vicinity of the Site (the nearest domestic structure being about 100m away) (**Plan A-2**), and environmental nuisance is expected as the applied use involves use of medium goods vehicles;
- (b) there is no substantiated environmental complaint pertaining to the Site received in the past three years; and
- (c) the applicant is advised to comply with all environmental protection/pollution ordinances, in particular Noise Control Ordinance, and to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites and Temporary Uses”.

11. Public Comments Received During Statutory Publication Period (Appendix VI)

On 29.12.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received. A Member of North District Council indicates no comment on the application. The remaining two comments from Kadoorie Farm and Botanic Garden and an individual object to the application mainly on the grounds that the applied use is not in line with the planning intention of the “AGR” zone and there is no strong justification in submission to justify a departure from the planning application of the “AGR” zone.

12. Planning Considerations and Assessments

12.1 The application is for a temporary open storage and warehouse of construction machinery for a period of three years and associated filling of land at the Site zoned “AGR”. The application also serves to regularize the land filling works undertaken at the Site. The applied use is not in line with the planning intention of the “AGR” zone as detailed in paragraph 9.1 above. DAFC does not support the application from an agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nonetheless, taking into account the planning assessment below, the applied use on a temporary basis of three years could be tolerated.

12.2 The application serves to regularize the land filling works undertaken at the Site. Filling of land within the “AGR” zone requires planning permission as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD) has no objection to the application from drainage perspective.

12.3 The Site falls within Category 2 areas under the TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of three years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

12.4 The Site is located in an area of rural landscape character comprising open storages, warehouses, fallow agricultural land, temporary structures, vacant land, as well as clusters of tree groups and woodland within the “GB” zone to the further south of the Site (**Plans A-1 to A-3**). The applied use is considered not entirely incompatible with the surrounding environment. In this regard, Chief Town Planner/Urban Design & Landscape, Planning Department, has no objection to the application from the landscape planning perspective since significant adverse impacts on the landscape character and the existing landscape resources arising from the applied use is not anticipated.

12.5 DEP has expressed concerns on the application as the applied use involves the use of medium goods vehicles and hence environmental nuisance on the sensitive users in the vicinity of the Site (the nearest domestic structure being about 100m away to the northeast) (**Plan 2**) is expected. To address the concerns, relevant approval conditions including restriction on the operation hours at the Site have been recommended in

paragraph 13.2 below. Should the application be approved, the applicant will also be advised to follow the 'Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites' to minimize the possible environmental impacts on the surrounding areas.

- 12.6 The Commissioner for Transport has no comment on the application from the traffic engineering point of view. Other concerned government departments, including CE/MN of DSD, District Lands Officer/North of Lands Department, Chief Highway Engineer/New Territories East of Highways Department and Director of Fire Services have no objection to or no adverse comment on the application.
- 12.7 The application generally complies with the TPB PG-No. 13G in that no major adverse departmental comments have been received on the application and the concerns of the relevant government departments can be addressed through implementation of approval conditions.
- 12.8 There are nine similar applications (No. A/NE-HLH/51, 54, 55, 59, 60, 61, 64, 66 and 70) approved between August 2021 and April 2024 after the relevant sites were reclassified from Category 3 to Category 2 under the TPB PG-No.13F/13G. They generally complied with TPB PG-No. 13F/13G in that no major adverse departmental comments were received on the applications and concerns of the relevant government departments could be addressed through implementation of approval conditions. The planning circumstances of the current application are similar to the approved cases.
- 12.9 Regarding the public comments on the application as detailed in paragraph 11, the government departments' comments and planning assessment above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments as detailed in paragraph 11, the Planning Department considers that the applied use could be tolerated for a period of three years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 10.5.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 10.11.2024;
- (d) in relation to (c) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of

Drainage Services or of the Town Planning Board by 10.2.2025;

- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 10.11.2024;
- (g) in relation to (f) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 10.2.2025;
- (h) if any of the above planning condition (a), (b) or (e) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (i) if any of the above planning condition (c), (d), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (j) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix V**.

13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

- the applied use and the associated filling of land are not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form with PS and attachments received on 22.12.2023
Appendix Ia	FI received on 22.1.2024
Appendix Ib	FI received on 30.1.2024
Appendix Ic	FI received on 2.2.2024
Appendix Id	FI received on 11.3.2024
Appendix Ie	FI received on 11.4.2024
Appendix II	Relevant Extracts of TPB Guidelines No. TPB PG-No. 13G
Appendix III	Similar s.16 Applications for Temporary Open Storage within the “AGR” zone in the vicinity of the Site in the Hung Lung Hang Area
Appendix IV	Government Departments’ General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Unmanned Aerial Vehicle Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
MAY 2024**